

AMENDED IN SENATE AUGUST 31, 2001

AMENDED IN SENATE JULY 2, 2001

AMENDED IN SENATE JUNE 20, 2001

AMENDED IN ASSEMBLY MAY 31, 2001

AMENDED IN ASSEMBLY APRIL 24, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

AMENDED IN ASSEMBLY MARCH 26, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 663

Introduced by Assembly Member Vargas
(Coauthors: Assembly Members Bates, Calderon, Chavez,
Frommer, Kehoe, La Suer, Strom-Martin, Washington, Wayne,
and Zettel)
(Coauthors: Senators Alpert and Burton)

February 22, 2001

An act to ~~amend Sections 3212.5, 3212.6, and 3212.9 of, and to add~~
Section 3212.11 to, the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 663, as amended, Vargas. Workers' compensation: lifeguards.

Existing law provides that an injury of an employee arising out of and in the course of employment is generally compensable through the workers' compensation system. Existing law provides that, in the case of certain law enforcement officers and firefighters, the term "injury"

includes heart trouble, hernia, pneumonia, and other injuries and diseases.

This bill would ~~extend these provisions~~ *provide, with respect to* active lifeguards employed, for more than 3 consecutive months in a calendar year, by certain local agencies and the Department of Parks and Recreation ~~with respect to, that the term “injury” includes skin cancer or hernia~~ that develops or manifests itself during the period of the lifeguard’s employment. ~~The bill would also extend these provisions to members of the California Highway Patrol with respect to hernia, tuberculosis, or meningitis that develops or manifests itself during the period of the member’s employment.~~

This bill would further create a rebuttable presumption that the above ~~injuries and diseases arise~~ *injury arises* out of and in the course of the lifeguard’s ~~or the California Highway Patrol member’s~~ employment if ~~they develop or manifest~~ *it develops or manifests* during the period of the employment.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3212.5 of the Labor Code is amended
2 to read:
3 3212.5. ~~In the case of a member of a police department of a~~
4 ~~city or municipality, or a member of the State Highway Patrol,~~
5 ~~when any such member is employed upon a regular, full-time~~
6 ~~salary, and in the case of a sheriff or deputy sheriff, or an inspector~~
7 ~~or investigator in a district attorney’s office of any county,~~
8 ~~employed upon a regular, full-time salary, the term “injury” as~~
9 ~~used in this division includes hernia, heart trouble, and pneumonia~~
10 ~~which develops or manifests itself during a period while such~~
11 ~~member, sheriff, or deputy sheriff, inspector or investigator is in~~
12 ~~the service of the police department, the State Highway Patrol, the~~
13 ~~sheriff’s office or the district attorney’s office, as the case may be.~~
14 ~~The compensation which is awarded for such hernia, heart trouble,~~
15 ~~or pneumonia shall include full hospital, surgical, medical~~
16 ~~treatment, disability indemnity, and death benefits as provided by~~
17 ~~the provisions of this division.~~
18 ~~Such hernia, heart trouble, or pneumonia so developing or~~
19 ~~manifesting itself shall be presumed to arise out of and in the~~

1 course of the employment; provided, however, that the member of
2 the police department, State Highway Patrol, the sheriff or deputy
3 sheriff, or an inspector or investigator in a district attorney's office
4 of any county shall have served five years or more in such capacity
5 before the presumption shall arise as to the compensability of heart
6 trouble so developing or manifesting itself. This presumption is
7 disputable and may be controverted by other evidence, but unless
8 so controverted, the appeals board is bound to find in accordance
9 with it. This presumption shall be extended to a member following
10 termination of service for a period of three calendar months for
11 each full year of the requisite service, but not to exceed 60 months
12 in any circumstance, commencing with the last date actually
13 worked in the specified capacity.

14 Such hernia, heart trouble, or pneumonia so developing or
15 manifesting itself in such cases shall in no case be attributed to any
16 disease existing prior to such development or manifestation.

17 The term "members" as used herein shall be limited to those
18 employees of police departments, the California Highway Patrol
19 and sheriffs' departments and inspectors and investigators of a
20 district attorney's office who are defined as peace officers in
21 Section 830.1, 830.2, or 830.3 of the Penal Code.

22 SEC. 2.—Section 3212.6 of the Labor Code is amended to read:

23 3212.6.—In the case of a member of a police department of a
24 city or county, or a member of the sheriff's office of a county, or
25 a member of the California Highway Patrol, or an inspector or
26 investigator in a district attorney's office of any county whose
27 principal duties consist of active law enforcement service, or a
28 prison or jail guard or correctional officer who is employed by a
29 public agency, when that person is employed upon a regular,
30 full-time salary, or in the case of members of fire departments of
31 any city, county, or district, or other public or municipal
32 corporations or political subdivisions, when those members are
33 employed on a regular fully paid basis, and in the case of active
34 firefighting members of the Department of Forestry and Fire
35 Protection whose duties require firefighting and first aid response
36 services, or of any county forestry or firefighting department or
37 unit, where those members are employed on a regular fully paid
38 basis, excepting those whose principal duties are clerical or
39 otherwise do not clearly fall within the scope of active law
40 enforcement, firefighting, or emergency first aid response service

~~such as stenographers, telephone operators, and other
officeworkers, the term “injury” includes tuberculosis that
develops or manifests itself during a period while that member is
in the service of that department or office. The compensation that
is awarded for the tuberculosis shall include full hospital, surgical,
medical treatment, disability indemnity, and death benefits as
provided by the provisions of this division.~~

~~The tuberculosis so developing or manifesting itself shall be
presumed to arise out of and in the course of the employment. This
presumption is disputable and may be controverted by other
evidence, but unless so controverted, the appeals board is bound
to find in accordance with it. This presumption shall be extended
to a member following termination of service for a period of three
calendar months for each full year of the requisite service, but not
to exceed 60 months in any circumstance, commencing with the
last date actually worked in the specified capacity.~~

~~A public entity may require applicants for employment in
firefighting positions who would be entitled to the benefits granted
by this section to be tested for infection for tuberculosis.~~

~~SEC. 3.—Section 3212.9 of the Labor Code is amended to read:~~

~~3212.9.—In the case of a member of a police department of a
city, county, or city and county, or a member of the sheriff’s office
of a county, or a member of the California Highway Patrol or a
county probation officer, or an inspector or investigator in a district
attorney’s office of any county whose principal duties consist of
active law enforcement service, when that person is employed on
a regular, full-time salary, or in the case of a member of a fire
department of any city, county, or district, or other public or
municipal corporation or political subdivision, or any county
forestry or firefighting department or unit, when those members
are employed on a regular full-time salary, excepting those whose
principal duties are clerical or otherwise do not clearly fall within
the scope of active law enforcement or firefighting, such as
stenographers, telephone operators, and other officeworkers, the
term “injury” includes meningitis that develops or manifests itself
during a period while that person is in the service of that
department, office, or unit. The compensation that is awarded for
the meningitis shall include full hospital, surgical, medical
treatment, disability indemnity, and death benefits as provided by
the provisions of this division.~~

~~The meningitis so developing or manifesting itself shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a person following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.~~

SEC. 4.—Section 3212.11 is added to the Labor Code, to read:

3212.11. This section applies to both of the following: (a) active lifeguards employed by a city, county, city and county, district, or other public or municipal corporation or political subdivision, and (b) active state lifeguards employed by the Department of Parks and Recreation. The term “injury,” as used in this division, includes skin cancer ~~or hernia~~ that develops or manifests itself during the period of the lifeguard’s employment. The compensation awarded for that injury shall include full hospital, surgical, and medical treatment, disability indemnity, and death benefits, as provided by the provisions of this division.

Skin cancer ~~or hernia~~ so developing or manifesting itself shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board shall find in accordance with it. This presumption shall be extended to a lifeguard following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

Skin cancer ~~or hernia~~ so developing or manifesting itself in these cases shall not be attributed to any disease existing prior to that development or manifestation.

This section shall only apply to lifeguards employed for more than three consecutive months in a calendar year.